IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 34969 of 1998

Between:

M.L.N. Chary, S/o Ranga Chary,
Central Institute of English and Foreign Languages,
Osmania University Campus,
Hyderabad, R/o Hyderabad.

..... PETITIONER

AND

Central Institute Of English and Foreign Languages
Rep. by Registrar, Osmania University Campus, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction (S) essentially in the nature of Writ of Mandamus directing the Respondents herein to promote the petitioner herein as Assistant Librarian in the Respondents Institution who is qualified and eligible for promotion with effect from the date on which the post of Assistant Librarian fell vacant, with all consequential benefits and attendant benefits such as arrears of salary seniority and promotion etc., holding that the action of the Respondents herein in not promoting the petitioner herein as Assistant Librarian though he is qualified and eligible for promotion as per the Rules of Recruitment and resorting to fill up the said post by Direct Recruitment though the said post falls to the promotions quota, is illegal, arbitrary, discriminatory and violative of Articles 14, 16 & 21 of the constitution of India and pass.

Counsel for the Petitioner: MR.J.SUDHEER

Counsel for the Respondent: MR.M.RAMA RAO

The Court made the following ORDER:

This writ petition is filed seeking a *Mandamus* directing the respondent to promote the petitioner as Assistant Librarian in the respondent-Institute with effect from the date, on which, the post of Assistant Librarian fell vacant, with all consequential benefits like arrears of salary, seniority and promotion.

The case of the petitioner is that he has been working as a Professional Assistant in the respondent Institute (deemed University). As per the Recruitment Rules for Non-Teaching Staff of the University, which were approved by the Government of India in 1985, the post of Assistant Librarian can be filled up by promotion from certain categories including the post of Professional Assistants and also by direct recruitment. The ratio between promotion and direct recruitment is 50:50. The required qualifications are good academic record with at least higher Second Class in Masters Degree in a subject other than Library Science and Masters Degree in Library Science with First or Higher Second Class. The petitioner is fully qualified as per the Rules required for promotion to the post of Assistant Librarian. In fact, one Sri N. Satish, who was working as a Professional Assistant, was promoted as Assistant Librarian through proceedings dated 20.01.1988. Ever since, no promotions have been given to the Professional Assistants as the Assistant Librarians. The petitioner gave a representation in 1994 requesting the respondent-Institute to place the matter with regard to promotions to the post of Assistant Librarians from the post of Professional Assistants before the Board. The petitioner along with other colleagues also made a representation in this regard on 28.07.1994 and another representation on 17.08.1994. In fact, the matter was placed before the Board on 31.10.1994 and the Board decided to refer the same to the University Grants Commission to permit the respondent-Institute to adopt the promotion policies existing in other Central Universities and if there was no response from the University Grants Commission within three months the Vice Chancellor shall take appropriate decision. Though,

the Board has decided to do so, it was noticed that in other Central Universities, the post of the Assistant Librarian was sought to be filled up in the ratio of 50:50 by promotion and direct recruitment respectively. In fact, in this very University also, prior to the University Grants Commission guidelines, the Recruitment Rules provided for such a ratio, being maintained between direct recruitees and promotees. However, through proceedings dated 13.12.1996, the respondent-Institute informed the petitioner that as per the Rules, the post of Assistant Librarian has to be filled up only by direct recruitment and as such, there is no provision for promotion. Hence, the present writ petition.

A detailed counter-affidavit has been filed by the respondent-Institute disputing and denying the allegations made by the petitioner and it is asserted that as per paragraph No.4 of the proceedings dated 22.07.1988, the recruitment to the post of Assistant Librarian, Deputy Librarian and Librarian as well as Assistant Director, Deputy Director and Director of Physical Education in the Universities shall be on the basis of merit through all India Advertisement and the Selection Procedure and the Assistant Librarians and Assistant Directors of Physical Education, who fulfill the criteria prescribed, will be eligible for promotion to the post of Deputy Librarians and Deputy Director of Physical Education respectively. Thus, the entire posts of Assistant Librarians shall be filled up only by direct recruitment. As per the resolution passed in the 75th Meeting of the Board held on 14.12.1988, the Board has decided to adopt new recruitment Rules for the post of Assistant Librarians. It is true that the petitioner has made several representations and the respondent-Institute after considering the representations recommended the same to the Board as well as Central Government. But, both of them have denied to consider the case of the petitioner for promotion and the same was informed to the petitioner through proceedings dated 13.12.1996 stating that his case cannot be considered in view of the procedure laid down under the new Recruitment Rules.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the material available on record.

At the out set, I am of the opinion that it is an unfortunate case that when the petitioner was appointed as a Professional Assistant in the respondent-Institute, there was a provision for appointment to the post of Assistant Librarian by way of direct recruitment as well as promotion from the post of Professional Assistant at the

ratio of 1:1. The petitioner was fully qualified to hold the post of Assistant Librarian. But, to his misfortune, since there is a change in procedure with regard to the appointment to the post of Assistant Librarian i.e., the said posts need to be filled up 100% through direct recruitment as per the University Grants Commission policy, which was adopted by the respondent-Institute in *toto* through a resolution passed by it. In fact, the respondent-Institute, on 31.10.1994, through its Minutes in the 90th Meeting, resolved as hereunder:

> *Requirement and Qualifications:*
>
> 4. *Recruitment to the posts of Assistant Librarian, Deputy Librarian and Librarian as well as Assistant Director, Deputy Director and Director of Physical Education in the Universities shall be on the basis of merit through all-India advertisement and Selection provided that Assistant Librarians and Assistant Directors of Physical Education who fulfil the criteria prescribed herein-after will be eligible for promotion to the posts of Deputy Librarian and Deputy Director of Physical Education respectively. Recruitment to the posts of Librarians and Director/Instructor of Physical Education in Colleges shall be on the basis of merit through all-India advertisement and selection."*

Even thereafter, the respondent-Institution has been corresponding with various authorities including Secretary, University Grants Commission, New Delhi. However, it was helpless since it has not received any positive response from the University Grants Commission and other Central Government authorities.

The service law of jurisprudence recognized providing promotional avenues in each and every category as a welfare measure. Time and again, the Apex Court has held that there should be promotional avenues available to the employees working in any Institution, at least, for two stages of promotion, otherwise it amounts to stagnation. The respondent-Institution has been struggling to revise the earlier Rules followed by it by way of resolution as well as addressing various authorities. But, nothing has come down.

In this backdrop, without expressing any opinion on merits, the petitioner is directed to make a detailed representation ventilating his grievance as to the policy with regard to the promotion to the Assistant Librarian, by referring various judgments of the Supreme Court. On such representation being made by the petitioner, the respondent-Institution shall forthwith forward the same to the authorities concerned

i.e., the University Grants Commission and the Government of India, Ministry of Human Resources for their consideration of the matter.

The writ petition is accordingly disposed of. No order as to costs.

_____

C.V. Ramulu, J

Date: 01.07.2005

va

To

1. The Registrar, Central Institute Of English and Foreign Languages
   Osmania University Campus, Hyderabad.
2. Two CD Copies